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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,079	12/30/2003	Marcus C. Koepke	087522-785-349	6881

28104 7590 06/10/2005

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EXAMINER
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D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/748,079

Applicant(s)

KOEPE ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 9/11/05 4/9/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-13 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 9 and 18-26 is/are rejected.
- 7) ☒ Claim(s) 10-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-26 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recite "said locking means" in 10 which lacks antecedent basis. The claim positively recites "means for locking" and then recites "locking means". The terminology should be consistent throughout the claims.

Also, line 9 of claim 18 recites "said activating arm" which lacks antecedent basis.

Correction is needed.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by

Vanderminden et al. (2003/0234566).

Vanderminden discloses an adjustable swivel rocker comprising a base 16, a seat plate 24 supported above the base, and a seat pan 20 slidably mounted to the seat plate so as to be slidable in a longitudinal direction. The seat plate 24 also includes a longitudinally

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operating activating arm for sliding the seat pan in a longitudinal direction with respect to the seat plate. The seat pan also has a longitudinal guide channel or sleeve 31 formed therein for receiving the activating arm. Moreover, the chair further comprises means for locking the seat pan in a fixed longitudinal position relative to the seat plate. The locking means operates in cooperation with the longitudinally operating activating arm.

Regarding claim 19, the locking means includes at least one transversely movable locking pin 36 for engaging the seat plate.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanderminden et al. (2003/0234566).

Vanderminden discloses an adjustable swivel rocker comprising a base 16, a seat plate 24 supported above the base, a seat pan 20 slidably mounted to the seat plate so as to be slidable in a longitudinal direction, operating means for sliding the seat pan in a longitudinal direction comprising transversely movable locking means 36 that engage the seat plate to lock the seat pan in a fixed longitudinal position. The seat pan further comprises a longitudinal guide channel or sleeve 31 for receiving the operational means. However, Vanderminden teaches that the seat plate comprises at least one aperture while the guide channel comprises a plurality of notches 39. The locking means 36 is movable

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between an extended position wherein the locking means extends through the at least one aperture of the seat plate and engages at least one of the notches and a retracted position wherein the locking means 36 is retracted from the at least one aperture and does not engage the notches. Note, the extended position includes the locking means 36 threaded into the seat plate while the retracted position includes the locking means unthreaded and removed from the seat plate. Yet, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the at least one aperture in the guide channel and the plurality of notches in the seat pan, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Regarding claim 9, the operating means includes guide means or slot 37 for guiding the movement of the locking means.

Regarding claim 21, similar to claims 8 and 20, Vanderminden teaches of the guide channel having guide means for guiding the movement of the locking means while the longitudinally operating arm has at least one aperture. However, , it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the at least one aperture in the guide channel and the plurality of notches in the seat pan, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

*Allowable Subject Matter*

4. Claims 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 22-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

6. Applicant's arguments filed April 11, 2005 have been fully considered but they are not persuasive.

In the previous office action, the examiner stated that claims 8-13 and 18-26 would be allowable if amended to overcome the 35 U.S.C. 112, 2<sup>nd</sup> paragraph, and to include all of the limitations of the base claim and any intervening claims. Yet, the amendment does not reflect this statement. Specifically, claim 8 and 18 does not include all of the intervening claims. Claim 8 should have included all limitations of claims 1, 5, 6 and 7. Claim 18 should have included all limitations of claims 1, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

*Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 571-272-6857. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 8, 2005



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